

07 CIV 9564

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

OCT 16 2007

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION



IN RE: FOSAMAX PRODUCTS LIABILITY LITIGATION

Carrie Smith, et al. v. Merck & Co., Inc., et al., )  
C.D. California, C.A. No. 2:07-4655 )

MDL No. 1789

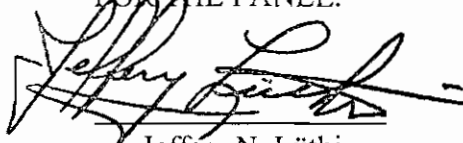
ORDER LIFTING STAY OF CONDITIONAL TRANSFER ORDER  
AND VACATING THE NOVEMBER 29, 2007, HEARING SESSION

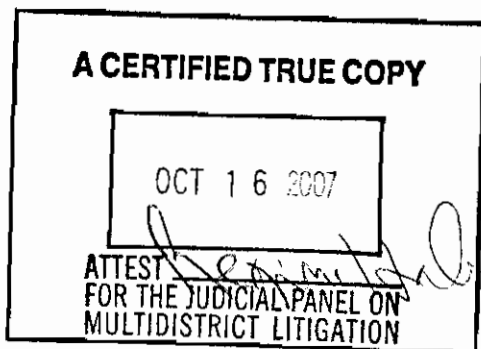
A conditional transfer order was filed in this action (*Smith*) on August 22, 2007. Prior to expiration of that order's 15-day stay of transmittal, plaintiffs in *Smith* filed a notice of opposition to the proposed transfer and the subsequent motion and brief to vacate the conditional transfer order. The Panel has now been advised that plaintiffs wish to withdraw their opposition to transfer.

IT IS THEREFORE ORDERED that the stay of the Panel's conditional transfer order designated as "CTO-32" filed on August 22, 2007, is LIFTED insofar as it relates to this action. The action is transferred to the Southern District of New York for inclusion in the coordinated or consolidated pretrial proceedings under 28 U.S.C. § 1407 being conducted by the Honorable John F. Keenan.

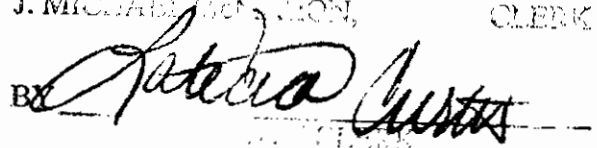
IT IS FURTHER ORDERED that the Hearing Session Order and the attached Schedule filed on October 12, 2007, are VACATED insofar as they relate to this action.

FOR THE PANEL:

  
Jeffery N. Lüthi  
Clerk of the Panel



A CERTIFIED TRUE  
J. MICHAEL J. JON, CLERK

BY   
J. MICHAEL J. JON, CLERK

(PJWx), DISCOVERY, RELATED-G, STAYED

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF  
CALIFORNIA (Western Division - Los Angeles)  
CIVIL DOCKET FOR CASE #: 2:07-cv-04655-FMC-PJW**

Carrie Smith et al v. Merck & Co Inc et al  
Assigned to: Judge Florence-Marie Cooper  
Referred to: Magistrate Judge Patrick J. Walsh  
Related Case: 2:06-cv-05378-FMC-PJW  
Case in other court: Superior Court of CA for the  
County of Los Angeles, BC374219  
Cause: 28:1446pl Notice of Removal - Product Liability

Date Filed: 07/18/2007  
Jury Demand: Both  
Nature of Suit: 365 Personal Inj.  
Prod. Liability  
Jurisdiction: Diversity

**Plaintiff**

**Carrie Smith**

represented by **Bruce Mayfield**  
Feinberg Grant Mayfield Kaneda  
and Litt  
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**Plaintiff**

**Coro Paxton**

represented by **Bruce Mayfield**  
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**Joseph Kaneda**  
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**William B Curtis**  
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**Plaintiff**

**Tom Paxton**

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**William B Curtis**  
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**Plaintiff**

**Nida Strange**

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**Plaintiff**

**Ellen Massengill**

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**Plaintiff**

**Peggy Creech**

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**Plaintiff**

**Mary Bentley**

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**Plaintiff**

**Mary Friedman**

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**Plaintiff**

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**Plaintiff**

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**Plaintiff**

**Eileen Richardson**

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**William B Curtis**  
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**Plaintiff**

**Ann Nelson**

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**Joseph Kaneda**  
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**William B Curtis**



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**Plaintiff**

**Patrice Ballum**

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**Joseph Kaneda**  
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**Ross W Feinberg**  
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**William B Curtis**  
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**Plaintiff**

**Mary Ann Guemelata**

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**William B Curtis**  
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**Plaintiff**

**Lauretta Tedford**

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**Plaintiff**

**Lee Ann Olson**

represented by **Alexandra V Boone**  
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**Bruce Mayfield**

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**Joseph Kaneda**

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**William B Curtis**

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**Plaintiff**

**Margaret Schueller**

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**Plaintiff**

**Marilyn Rubenzer**

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**William B Curtis**  
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V.

**Defendant**

**Merck & Co Inc**

represented by **Douglas C Emhoff**  
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**Defendant**  
**McKesson Corporation**

represented by **Anthony G Brazil**  
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| Date Filed | # | Docket Text   |
|------------|---|---|
| 07/18/2007 | 1 | NOTICE OF REMOVAL from Superior Court of CA for the County of Los Angeles, case number BC374219 with conformed filed copy of summons and complaint. Case assigned to Judge Manuel L. Real, Discovery to Magistrate Judge Carla M. Woehrle. (Filing fee \$ 350 |



|            |   |  |
|------------|---|--|
|            |   | PAID.), filed by Defendant Merck & Co Inc. (et) (Entered: 07/25/2007)  |
| 07/18/2007 | 2 | CERTIFICATION AND NOTICE of Interested Parties filed by Defendant Merck & Co Inc. (et) (Entered: 07/25/2007)   |
| 07/18/2007 |   | FAX number for Attorney Alexandra V Boone, William B Curtis is 214-739-4732. (et) (Entered: 07/25/2007)  |
| 07/18/2007 |   | FAX number for Attorney Ross W Feinberg, Joseph Kaneda, Bruce Mayfield is 949-554-0707. (et) (Entered: 07/25/2007)   |
| 07/18/2007 |   | FAX number for Attorney Douglas C Emhoff, Jeffrey M Tanzer is 310-229-9901. (et) (Entered: 07/25/2007)   |
| 07/18/2007 |   | NOTICE OF FILING FEE DUE on Pro Hac Vice Application mailed to attorney Alexandra V Boone for Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laurretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. (et) (Entered: 07/25/2007)              |
| 07/18/2007 |   | NOTICE OF FILING FEE DUE on Pro Hac Vice Application mailed to attorney William B Curtis for Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laurretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. (et) (Entered: 07/25/2007)               |
| 07/18/2007 | 4 | NOTICE of Related Case(s) filed by Defendant Merck & Co Inc. Related Case(s): CV 06-5378 FMC (PJWx) and other related cases (rn) (Entered: 07/26/2007)   |
| 07/25/2007 | 3 | NOTICE TO COUNSEL by Judge Manuel L. Real: This case has been assigned to the calendar of Judge Manuel L Real. Counsel are advised that the Court expects strict compliance with the provisions of the LR and the FRCP. Noncompliance may lead to the imposition of sanctions which may include the striking of pleadings and entry of judgment or dismissal of the action. (See document for further details.)(pcl) (Entered: 07/26/2007) |
| 07/27/2007 | 8 | NOTICE of "Notice to Counsel" filed by defendant, Merck & Co., Inc. (ear) (Entered: 08/14/2007)  |
| 08/08/2007 | 5 | ANSWER to Complaint [1] filed by defendant Merck & Co Inc.(pcl)  |



|            |    |   |
|------------|----|---|
|            |    | (Entered: 08/09/2007)   |
| 08/10/2007 | 6  | ANSWER to Complaint [1] filed by defendant McKesson Corporation.(pcl) (Entered: 08/14/2007)   |
| 08/10/2007 |    | FAX number for Attorneys Anthony G Brazil, Wendi J Frisch, Megan S Wynne is 213-488-1178. (pcl) (Entered: 08/14/2007)   |
| 08/10/2007 | 7  | CERTIFICATION as to Interested Parties filed by Defendant McKesson Corporation. (pcl) (Entered: 08/14/2007)   |
| 08/14/2007 | 9  | APPLICATION of William B Curtis for Leave to Appear Pro Hac Vice. FEE PAID. filed by plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. Lodged proposed order. (pcl) (Entered: 08/15/2007)  |
| 08/20/2007 | 10 | ORDER by Judge Manuel L. Real: Granting [9] Application to Appear Pro Hac Vice by Attorney William B Curtis on behalf of Plaintiffs Carrie Smith, et al., designating Joseph Kaneda as local counsel.(pcl) (Entered: 08/21/2007)  |
| 08/22/2007 | 17 | NOTICE OF DISCREPANCY AND ORDER: by Judge Manuel L. Real, ORDERING Plaintiffs opposition to defendant Merck and Co Inc's removal, notice of motion, motion to remand action and brief submitted by Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer received on 8/7/2007 is not to be filed but instead rejected. Denial based on: This document is actually a notice and motion to remand which requires a motion date.(pj) (Entered: 08/30/2007) |
| 08/23/2007 | 11 | ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 07.02 -Related Case- filed. Related Case No: CV 06-5378 FMC (PJWx). Case transfered from Judge Manuel L. Real and Carla Woehrle to Judge Florence-Marie Cooper and Patrick J. Walsh for all further proceedings. The case number will now reflect the initials of the transferee Judge CV 07-4655 FMC (PJWx).Signed by Judge Florence-Marie Cooper (rn) (Entered: 08/23/2007)   |
| 08/23/2007 | 13 | NOTICE OF MOTION AND MOTION to Stay Case Proceedings filed by Defendant Merck & Co Inc.Motion set for hearing on  |

|            |    |   |
|------------|----|---|
|            |    | 9/17/2007 at 10:00 AM before Judge Florence-Marie Cooper. Lodged Proposed Order. (bho) (Entered: 08/28/2007)  |
| 08/23/2007 | 14 | REQUEST FOR JUDICIAL NOTICE In Support of Defendant Merck & Co., Inc.'s MOTION to Stay Case Proceedings[13] filed by Defendant Merck & Co Inc. (bho) (Entered: 08/28/2007)  |
| 08/24/2007 | 12 | MINUTES (IN CHAMBERS) by Judge Florence-Marie Cooper: This action has been reassigned to the Honorable Florence-Marie Cooper, United States District Judge. Please substitute the initials FMC in place of the initials R. The case number will now read: 2:07-cv-04655-FMC-PJWx. Judge Cooper's courtroom deputy clerk is Alicia Mamer and can be reached at (213) 894-1782. Judge Cooper's courtroom is located on the 7th floor of the Roybal Federal Building, courtroom #750. Defendant's Motion to Stay, filed on 8/23/2007 is hereby set for hearing on 9/24/2007 at 10:00 a.m. with Judge Cooper. (See document for further details.) (pcl) (Entered: 08/27/2007) |
| 08/27/2007 | 18 | NOTICE Of Related Case Transfer filed by Defendant Merck & Co Inc. (rn) (Entered: 08/31/2007)   |
| 08/27/2007 | 19 | NOTICE OF MOTION AND MOTION to Amend/Correct [14] Request for Judicial Notice, Request for Relief, filed by Defendant Merck & Co Inc. Motion set for hearing on 9/17/2007 at 10:00 AM before Judge Florence-Marie Cooper. (bho) (Entered: 09/05/2007)   |
| 08/28/2007 | 15 | PLAINTIFF'S REQUEST for ORAL HEARING filed by Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laurretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. Lodged Proposed Order. (shb) (Entered: 08/29/2007)   |
| 08/28/2007 | 20 | NOTICE OF MOTION AND MOTION to Amend/Correct [13] MOTION to Stay Case pending Proceedings filed by Defendant Merck & Co Inc. Motion set for hearing on 9/24/2007 at 10:00 AM before Judge Florence-Marie Cooper. (bho) (Entered: 09/05/2007)  |
| 08/30/2007 | 16 | MINUTES OF IN CHAMBERS ORDER ON PLAINTIFF'S REQUEST held before Judge Florence-Marie Cooper : re: REQUEST for Order for ORAL HEARING[15]. The Request for Oral Hearing is DENIED AS MOOT.(ama) (Entered: 08/30/2007)  |
| 09/10/2007 | 22 | PLAINTIFF'S OPPOSITION TO DEFENDANT MERCK & CO., INCL'S REMOVAL, NOTICE OF MOTION, MOTION TO  |

|            |    |  |
|------------|----|--|
|            |    | REMAND ACTION AND BRIEF IN SUPPORT filed by Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laurretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. (ama) (Entered: 09/12/2007)   |
| 09/12/2007 | 21 | NOTICE OF DOCUMENT DISCREPANCIES AND ORDER by Judge Florence-Marie Cooper ORDERING PLAINTIFF'S OPPOSITION TO DEFENDANT MERCK & CO., INC.'S REMOVAL, NOTICE OF MOTION, MOTION TO REMAND ACTION AND BRIEF IN SUPPORT submitted by Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laurretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer received on September 10, 2007 to be filed and processed; filed date to be the date the document was stamped Received but not Filed with the Clerk.(ama) (Entered: 09/12/2007) |
| 09/14/2007 | 25 | OPPOSITION to MOTION to Stay Case pending Proceedings[13], filed by Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Laurretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. (bho) (Entered: 09/20/2007)   |
| 09/17/2007 | 23 | ORDER GRANTING MOTION TO STAY PROCEEDINGS by Judge Florence-Marie Cooper: re Motion to Stay [13]. IT IS HEREBY ORDERED that all proceedings in this action are stayed pending transfer of the action to MDL Proceeding No. 1789, In re Fosamax Products Liability Litigation, in the Southern District of New York, or until further order of this Court.(ama) Modified on 9/19/2007 (ama, ). (Entered: 09/19/2007)  |
| 09/17/2007 | 26 | REPLY BRIEF in support MOTION to Stay Case pending Proceedings[13] and OPPOSITION to Plaintiff's "Notice of Motion, Motion to Remand" filed by Defendant Merck & Co Inc. (vm) (Entered: 09/21/2007)  |
| 09/17/2007 | 27 | REQUEST FOR JUDICIAL NOTICE in support of Reply Brief in support of MOTION to Stay Case pending Proceedings[13] filed by defendant Merck & Co Inc. (vm) (Entered: 09/21/2007)  |



|            |    |   |
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| 09/18/2007 | 24 | CERTIFICATE of Interested Parties filed by Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Lauretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. (mg) (Entered: 09/20/2007)   |
| 09/18/2007 | 28 | OPPOSITION TO DEFENDANT MERCK AND CO INC'S REMOVAL, NOTICE OF MOTION, MOTION TO REMAND ACTION AND BRIEF in support filed by Plaintiffs Tom Paxton, Nida Strange, Ellen Massengill, Peggy Creech, Mary Bentley, Mary Friedman, Carrie Smith, Ella Luzier, Angelina Grbac, Eileen Richardson, Ann Nelson, Patrice Ballum, Mary Ann Guemelata, Lauretta Tedford, Lee Ann Olson, Coro Paxton, Margaret Schueller, Marilyn Rubenzer. (esa) (Entered: 09/26/2007) |

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